

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2487

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-1154, Arizona Revised Statutes, is amended to  
3 read:

4 32-1154. Grounds for suspension or revocation of license:  
5 continuing jurisdiction; civil penalty; recovery  
6 fund award; summary suspension

7 A. The holder of a license or any person listed on a license pursuant  
8 to this chapter shall not commit any of the following acts or omissions:

9 1. Abandonment of a contract or refusal to perform after submitting a  
10 bid on work without legal excuse for the abandonment or refusal.

11 2. Departure from or disregard of plans or specifications or any  
12 building codes of the state or any political subdivision of the state in any  
13 material respect that is prejudicial to another without consent of the owner  
14 or the owner's duly authorized representative and without the consent of the  
15 person entitled to have the particular construction project or operation  
16 completed in accordance with such plans and specifications and code.

17 3. Violation of any rule adopted by the registrar.

18 4. Failure to comply with the statutes or rules governing social  
19 security, workers' compensation or unemployment insurance.

20 5. Failure to pay income taxes, withholding taxes or any tax imposed  
21 by title 42, chapter 5, articles 1 and 4 and incurred in the operation of the  
22 licensed business.

23 6. Misrepresentation of a material fact by the applicant in obtaining  
24 a license.

25 7. The doing of a fraudulent act by the licensee as a contractor  
26 resulting in another person being substantially injured.

27 8. Conviction of a felony.

1           9. Failure in a material respect by the licensee to complete a  
2 construction project or operation for the price stated in the contract, or in  
3 any modification of the contract.

4           10. Aiding or abetting a licensed or unlicensed person to evade this  
5 chapter, knowingly or recklessly combining or conspiring with a licensed or  
6 unlicensed person, allowing one's license to be used by a licensed or  
7 unlicensed person or acting as agent, partner, associate or otherwise of a  
8 licensed or unlicensed person with intent to evade this chapter.

9           11. Failure by a licensee or agent or official of a licensee to pay  
10 monies in excess of seven hundred fifty dollars when due for materials or  
11 services rendered in connection with the licensee's operations as a  
12 contractor when the licensee has the capacity to pay or, if the licensee  
13 lacks the capacity to pay, when the licensee has received sufficient monies  
14 as payment for the particular construction work project or operation for  
15 which the services or materials were rendered or purchased.

16           12. Failure of a contractor to comply with any safety or labor laws or  
17 codes of the federal government, state or political subdivisions of the  
18 state.

19           13. Failure in any material respect to comply with this chapter.

20           14. Knowingly entering into a contract with a contractor for work to be  
21 performed for which a license is required with a person not duly licensed in  
22 the required classification.

23           15. Acting in the capacity of a contractor under any license issued  
24 under this chapter in a name other than as set forth on the license.

25           16. False, misleading or deceptive advertising whereby any member of  
26 the public may be misled and injured.

27           17. Knowingly contracting beyond the scope of the license or licenses  
28 of the licensee.

29           18. Contracting or offering to contract or submitting a bid while the  
30 license is under suspension or while the license is on inactive status.

31           19. Failure to notify the registrar in writing within a period of  
32 fifteen days of any disassociation of the person who qualified for the

1 license. Such licensee shall have sixty days from the date of such  
2 disassociation to qualify through another person.

3 20. Subsequent discovery of facts that if known at the time of issuance  
4 of a license or the renewal of a license would have been grounds to deny the  
5 issuance or renewal of a license.

6 21. Having a person named on the license who is or was named on any  
7 other license in this state or in another state that is under suspension or  
8 revocation for any act or omission that occurs while the person is or was  
9 named on the license unless the prior revocation was based solely on a  
10 violation of this paragraph.

11 22. Continuing a new single family residential construction project  
12 with actual knowledge that a pretreatment wood-destroying pests or organisms  
13 application was either:

14 (a) Not performed at the required location.

15 (b) Performed in a manner inconsistent with label requirements, state  
16 law or rules.

17 23. Failure to take appropriate corrective action to comply with this  
18 chapter or with rules adopted pursuant to this chapter without valid  
19 justification within a reasonable period of time after receiving a written  
20 directive from the registrar. The written directive shall set forth the time  
21 within which the contractor is to complete the remedial action. The time  
22 permitted for compliance shall not be less than fifteen days from the date of  
23 issuance of the directive. A license shall not be revoked or suspended nor  
24 shall any other penalty be imposed for a violation of this paragraph until  
25 after a hearing has been held.

26 24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or  
27 otherwise intimidate any contractor or materialman from serving a preliminary  
28 notice pursuant to section 33-992.01.

29 B. The registrar may on the registrar's own motion, and shall on the  
30 ~~owner or contractor that is a party to a~~ **PROPER** written complaint of any  
31 ~~construction contract or a person who suffers a material loss or injury as a~~  
32 ~~result of a contractor's failure to perform work in a professional and~~

1 ~~workmanlike manner or in accordance with any applicable building codes and~~  
2 ~~professional industry standards~~, investigate the acts of any contractor  
3 within this state and may temporarily suspend, with or without imposition of  
4 specific conditions in addition to increased surety bond or cash deposit  
5 requirements, or permanently revoke any or all licenses issued under this  
6 chapter if the holder of the license issued pursuant to this chapter is  
7 guilty of or commits any of the acts or omissions set forth in subsection A  
8 of this section. For the purposes of this subsection:

9 1. "Construction contract" means a written or oral agreement relating  
10 to the construction, alteration, repair, maintenance, moving or demolition of  
11 any building, structure or improvement or relating to the contractor's  
12 excavation of or other development or improvement to land if the registrar  
13 investigates the contractor's actions under this subsection.

14 2. "Owner" means any person, firm, partnership, corporation,  
15 association or other organization, or a combination of any of them, that  
16 causes a building, structure or improvement to be constructed, altered,  
17 repaired, maintained, moved or demolished or that causes land to be excavated  
18 or otherwise developed or improved, whether the interest or estate of the  
19 person is in fee, as vendee under a contract to purchase, as lessee or  
20 another interest or estate less than fee, pursuant to a construction  
21 contract.

22 C. The expiration, cancellation, suspension or revocation of a license  
23 by operation of law or by decision and order of the registrar or a court of  
24 law or the voluntary surrender of a license by a licensee shall not deprive  
25 the registrar of jurisdiction to proceed with any investigation of or action  
26 or disciplinary proceeding against such licensee, or to render a decision  
27 suspending or revoking such a license, or denying the renewal or right of  
28 renewal of such license.

29 D. The registrar may impose a civil penalty of not to exceed five  
30 hundred dollars on a contractor for each violation of subsection A, paragraph  
31 23 of this section. Civil penalties collected pursuant to this subsection  
32 shall be deposited in the residential contractors' recovery fund. The

1 failure by the licensee to pay any civil penalty imposed under this  
2 subsection results in the automatic revocation of the license thirty days  
3 after the effective date of the order providing for the civil penalty. No  
4 future license may be issued to an entity consisting of a person, as defined  
5 in section 32-1101, subsection A, paragraph 6, who is associated with the  
6 contractor, unless payment of any outstanding civil penalty is tendered.

7 E. The registrar shall impose a civil penalty of not to exceed one  
8 thousand dollars on a contractor for each violation of subsection A,  
9 paragraph 18 of this section. Civil penalties collected pursuant to this  
10 subsection shall be deposited in the residential contractors' recovery fund.  
11 The failure by the licensee to pay any civil penalty imposed under this  
12 subsection results in the automatic permanent revocation of the license  
13 thirty days after the effective date of the order providing for the civil  
14 penalty. No future license may be issued to an entity consisting of a  
15 person, as defined in section 32-1101, subsection A, paragraph 6, who is  
16 associated with the contractor, unless payment of any outstanding civil  
17 penalty is tendered.

18 F. THE REGISTRAR SHALL IMPOSE A CIVIL PENALTY OF NOT TO EXCEED FIVE  
19 HUNDRED DOLLARS ON A CONTRACTOR FOR EACH VIOLATION OF SUBSECTION A,  
20 PARAGRAPHS 4, 5, 10 OR 14 OF THIS SECTION. THE REGISTRAR MAY IMPOSE THE CIVIL  
21 PENALTY WITHOUT SENDING A WRITTEN DIRECTIVE TO THE CONTRACTOR. CIVIL  
22 PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED IN THE  
23 RESIDENTIAL CONTRACTORS' RECOVERY FUND. THE FAILURE BY THE LICENSEE TO PAY  
24 ANY CIVIL PENALTY IMPOSED UNDER THIS SUBSECTION RESULTS IN THE AUTOMATIC  
25 REVOCATION OF THE LICENSE THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE ORDER  
26 PROVIDING FOR THE CIVIL PENALTY. NO FUTURE LICENSE MAY BE ISSUED TO AN ENTITY  
27 CONSISTING OF A PERSON, AS DEFINED IN SECTION 32-1101, SUBSECTION A,  
28 PARAGRAPH 6, WHO IS ASSOCIATED WITH THE CONTRACTOR, UNLESS PAYMENT OF ANY  
29 OUTSTANDING CIVIL PENALTY IS TENDERED.

30 ~~F.~~ G. Notwithstanding any other provisions in this chapter, if a  
31 contractor's license has been revoked or has been suspended as a result of an  
32 order to remedy a violation of this chapter, the registrar may order payment

1 from the residential contractors' recovery fund to remedy the violation. The  
2 registrar shall serve the contractor with a notice setting forth the amount  
3 claimed or to be awarded. If the contractor contests the amount or propriety  
4 of the payment, the contractor shall respond within ten days of the date of  
5 service by requesting a hearing to determine the amount or propriety of the  
6 payment. Failure by the contractor to respond in writing within ten days of  
7 the date of service shall be deemed a waiver by the contractor of the right  
8 to contest the amount claimed or to be awarded. Service may be made by  
9 personal service to the contractor or by mailing a copy of the notice by  
10 registered mail with postage prepaid to the contractor's latest address of  
11 record on file in the registrar's office. If service is made by registered  
12 mail, it is effective five days after the notice is mailed. Except as  
13 provided in section 41-1092.08, subsection H, the contractor or injured  
14 person may seek judicial review of the registrar's final award pursuant to  
15 title 12, chapter 7, article 6. An applicant to the residential contractors'  
16 recovery fund pursuant to this subsection must show that the applicant has  
17 proceeded against any existing bond covering the residential contractor and  
18 has not collected on the bond in an amount of thirty thousand dollars or  
19 more.”

20 Amend title to conform

STEVE YARBROUGH

3/17/14  
1:34 PM  
S: BR/lS